

210.270 Custodial care of patients with an intellectual disability in private homes, private nursing homes, and private institutions -- Transfer or reclassification of patient -- Procedure.

- (1) The secretary of the Cabinet for Health and Family Services is authorized to designate those private homes, private nursing homes, and private institutions that he deems, after a thorough investigation of the personal and financial qualifications of the owners and tenants, the facilities and management, and the desirability of the location of the homes, suitable for the placement of patients, including individuals with mental illness or an intellectual disability of all ages, outside of the state mental hospitals. The secretary of the Cabinet for Health and Family Services may promulgate, by administrative regulation, standards for the selection and operation of private homes, private nursing homes, and private institutions designated for the placement of patients. No home of an officer or employee of the Cabinet for Health and Family Services or of a member of his immediate family shall be designated for the placement of patients.
- (2) Whenever the staff of a state mental hospital has determined that a patient who is not being held on an order arising out of a criminal offense has sufficiently improved and is not dangerous to himself or other persons, and that it would be in the patient's best interest to be placed outside of the hospital in a private home or private nursing home, the hospital shall so certify and authorize the patient to be transferred to a designated private home or private nursing home for care and custody for a length of time that the hospital deems advisable.
- (3) No patient with an intellectual disability lodged in a state institution may have his level of care reclassified nor may he be transferred to a private nursing home or other private institution without first providing ten (10) days' notice by certified mail, return receipt requested, to the patient's parents or guardian that a reclassification of the patient's level of care or a transfer in the place of residence is being considered.
- (4) Any parent or guardian of any patient with an intellectual disability lodged in a state institution may participate in any evaluation procedure which may result in a reclassification of the patient's level of care or in a transfer in the place of residence of the patient. Participation may include the submission by the parents or guardian of medical evidence or any other evidence deemed relevant by the parents or guardian to the possible reclassification or transfer of the patient.
- (5) If the decision to reclassify or transfer any patient with an intellectual disability is adverse to the best interests of the patient as expressed by the parents or guardian, they shall be given notice by certified mail, return receipt requested, that they are entitled to a thirty (30) day period from the receipt of such notice to file with the secretary of the Cabinet for Health and Family Services a notice of appeal and application for a hearing. Upon receipt of an application for a hearing, a hearing shall be conducted in accordance with KRS Chapter 13B.
- (6) The appeal shall be heard by a three (3) member panel composed of a designated representative of the Cabinet for Health and Family Services, a designated representative of the state institution where the patient with an

intellectual disability is presently lodged, and a designated neutral representative appointed by the county judge/executive wherein the institution in question is located. The secretary may appoint a hearing officer to preside over the conduct of the hearing.

- (7) Decisions made by the panel may be appealed to the Circuit Court of the county in which the state institution in question is located, to the Circuit Court of the county in which either of the parents or guardians or committee of the patient in question is domiciled at the time of the decision, or to Franklin Circuit Court in accordance with KRS Chapter 13B.
- (8) All parents or guardians or committee of a patient with an intellectual disability lodged in a state institution shall be fully apprised by the Cabinet for Health and Family Services of their rights and duties under the provisions of subsections (3), (4), (5), (6), and (7) of this section.
- (9) The provisions of KRS 210.700 to 210.760 shall apply to patients transferred to designated private homes and private nursing homes as though the patients were residing in a state mental hospital.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 141, sec. 18, effective July 15, 2010. -- Amended 2005 Ky. Acts ch. 99, sec. 320, effective June 20, 2005. -- Amended 1998 Ky. Acts ch. 426, sec. 265, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 318, sec. 100, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 405, sec. 70, effective July 15, 1994. -- Amended 1986 Ky. Acts ch. 428, sec. 4, effective July 15, 1986. -- Amended 1982 Ky. Acts ch. 141, sec. 69, effective July 1, 1982. -- Amended 1980 Ky. Acts ch. 114, sec. 39, effective July 15, 1980; and ch. 188, sec. 201, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 333, sec. 1, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 107(1), (8), (9) and (21). -- Amended 1970 Ky. Acts ch. 237, sec. 1. -- Amended 1960 Ky. Acts ch. 64, sec. 7, effective June 16, 1960. -- Created 1954 Ky. Acts ch. 13, sec. 1.

Note: 1980 Ky. Acts ch. 396, sec. 73 would have amended this section effective July 1, 1982. However, 1980 Ky. Acts ch. 396 was repealed by 1982 Ky. Acts ch. 141, sec. 146, also effective July 1, 1982.